



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/154,562	11/19/93	FOGEL	A 90038B

12M2/1030
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EXAMINER	
BARTS, \$	
ART UNIT	PAPER NUMBER
1204	

DATE MAILED: 10/30/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/154,562

Applicant(s)

FOGEL

Examiner

Samuel Barts

Group Art Unit

1204



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 33-48 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 33-48 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1204

Part III DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 33-48 are rejected under 35 U.S.C. § 103 as being unpatentable over Fourman et al(US 4,963,591) .

Fourman teaches structurally similar compositions to the instant claimed invention.

Fourman appears to have minor differences in the recited use of said cosmetic compositions.

However, one skilled in the art would be well versed in the various related utilities of a cosmetic composition. Therefore, it would have been obvious to one having ordinary skill in the art to have used the composition taught by Fourman for other cosmetic purposes.


Such a modification would have been obvious since a skilled artisan would be reasonably expected to use a well known composition in obviously related art.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Samuel Barts whose telephone number is (703)308-4630. The examiner's normal tour of duty is between 6:30-3:00, M-F. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1200 receptionist whose telephone number is (703) 308-1235. The Examiner's supervisor, Gary Geist, may be reached at (703) 308-4628. Communications may now be transmitted via FAX directly to group 1200. The official group 1200 FAX machine number is (703) 308-4556.


SAMUEL BARTS
PRIMARY EXAMINER
GROUP 1200

S.B.
October 29, 1996